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RESPECT FOR LAW

"Where law ends tyranny begins."—WILLIAM PITT

ADDRESS
OF
HON. HARRY M. DAUGHERTY
ATTORNEY GENERAL OF THE UNITED STATES

AT THE MEETING OF THE
AMERICAN BAR ASSOCIATION
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Respect for law is the one essential fact of our civilization. Without it life, liberty, and property are insecure. Without it civilization falls back to the chaos and anarchy of primitive times.

The history of civilization has been a continuous struggle for law and order.

They may still debate as to the wisdom of the law, but there is only one course of conduct and that is obedience to the law while it exists.

From the standpoint of the Government, the only sound view is that of law enforcement. Whatever differences of opinion exist in the views as to the wisdom of some of these laws can be of no concern to the agencies for law enforcement. The executive department can not make the laws. It is especially true that it can not nullify laws. To refuse or to neglect to enforce a valid enactment of the legislative department of government, or to enforce it mechanically or half-heartedly, or to wink at its violation, is without justification on any sound theory of government.

Our safety and happiness lies in obedience to law by every man, woman, and child within the domain of our Republic, and no one can undermine respect for law without being, to that extent, an enemy to law and orderly government.

As a citizen can not choose what laws he will obey, so likewise those charged with law enforcement can not choose what laws they will enforce. The only sound position for those who favor respect for law to take is that those charged with law enforcement must enforce all the laws and all good citizens must obey all the laws. Neither can exercise any right of choice in this matter without placing themselves above the law.

The Government will endure on the rock of law enforcement or it will perish in the quicksands of lawlessness.

Those who do not believe in our Government and the enforcement of our laws should go to a country which gives them their peculiar liberty.

My duty is clear. As long as I am the responsible head of the Department of Justice the law will be enforced with all the power possessed by the Government which I am at liberty to call to my command.

ADDRESS
OF
HON. HARRY M. DAUGHERTY,
Attorney General of the United States.

RESPECT FOR LAW.

"Where law ends, tyranny begins."—William Pitt.

Mr. Chairman and gentlemen: In the outset I extend to the members of these two bodies, the American Bar Association and the Ohio Bar Association, in joint meeting assembled, my thanks for the privilege of appearing before you on this occasion. I assure you I appreciate fully the courtesy extended to me.

Many times since I accepted this invitation my duties have prompted me to plead to be excused, but when I remembered the uniform courtesies extended to me by the members of the bar of Ohio and of other States, and the fine spirit of helpfulness which you have manifested on every occasion, I have wished to come, feeling that I might gather renewed personal strength by mingling with you.

You have from time to time had the privilege of hearing the ablest and most profound men of the bench and bar, not only of our own country but also of the British Empire and of other countries. They have presented to you in masterly fashion the profound problems of the law. I have set for myself a much humbler, though possibly a not less useful task, to lay before you a few of the problems which I face from day to day as the head of the Department of Justice, in order that you may understand, and, through you, the American people, the principles upon which they are decided. Hence, it seems fitting to speak to you on the general subject of respect for law, or, rather, to enumerate to you for your consideration some of the things that tend to undermine respect for law.

This subject is not new—few vitally important subjects are new. It is, however, timely. By this I do not mean that we have been suddenly ushered into an era of lawlessness. No attempt will be made to prove by statistical or other methods that lawlessness is increasing. My purpose will be mainly to call attention to certain theories of political philosophy advanced by those who either violate the law or sympathize with law violators as a defense and justification of their course. Some of these theories are as old as constitutional government, and have been advanced from time to time by those who have sought to evade the penalties of the law.

Hence, my purpose is, first, to speak to you, by way of background, upon the general subject of respect for law, and, second, to present some of the theories that have been advanced or more vigorously revived since the World War which, if accepted into our constitutional and municipal law, would seriously embarrass the rule of law and order in this country.

I can not conceive of a more appropriate audience with which to discuss the problems and difficulties encountered in the vigorous enforcement of law than with the representatives of the bar here assembled. Who could understand these problems better or play a more efficient part in their solution?

AMERICAN BAR.

The American bar has had a glorious past. From its ranks have been drawn very many of the great names that stand out for useful service in the founding of our Government, the making of the Constitution, in the expounding and

development of this wonderful instrument of government, and in the growth of the Nation under it. In all this work the bar has contributed a leading part.

In that profound study of the correct political philosophy upon which a sound system of constitutional government should be erected the lawyer has stood in the forefront. But, my friends, the opportunities of to-day are no less than they have been in the past. Probably there has been no era in our history in which an able, intelligent, educated lawyer, consecrated to the service of the State, inspired by broad, liberal public spirit, with a sincere devotion to the welfare of his fellow men, has had a larger or more useful field in which to exert his talents than to-day.

CALL TO SERVICE.

You will perceive, therefore, that my coming is a call to service.

Napoleon, standing in the shadow of the pyramids of Egypt, having just received the news that France had given herself up to a drunken orgy of lawlessness and anarchy, exclaimed, as he departed immediately for France:

"The reign of the lawyers is over!"

Whether Napoleon meant by this that the reign of law had yielded to anarchy and lawlessness and conceived that anarchy needed not the lawyer but the armed rule which he intended to impose upon it or whether he meant to express disgust and contempt at what he considered the reign of the lawyers is not material. The fact remains that the imperial hand of Napoleon, the stern presence of military force, the glittering bayonet of steel, were all insufficient to furnish the permanent basis upon which a new civilization for France was to be builded. Napoleon failed in much that he undertook, but the Code Napoleon—the work of French jurists performed under his direction—furnished the basis for the civil law of modern Europe and stands to-day as his most enduring monument. The "man of destiny" held the lawyers in contempt, but he was forced to accept their services and counsel before France could be redeemed and placed on a basis of orderly government.

CIVILIZATION A STRUGGLE FOR LAW AND ORDER.

Respect for law is the one essential fact of our civilization. Without it life, liberty, and property are insecure. Without it civilization falls back to the chaos and anarchy of primitive times. Under such conditions each human being is compelled to attend primarily to his own safety and to the protection of his own property, and has neither time nor opportunity for the intellectual, moral, or spiritual development.

The history of civilization has been a continuous struggle for law and order. Through all the centuries men have striven for that protection of life, liberty, and property that comes through well-ordered government. Mankind has paid allegiance to lords and overlords who were able to give protection.

Our present civilization did not come by chance. It is the result of labor, toil, and consecrated service of hand and mind and heart. The wealth of our day in all its forms is but the surplus of what man has produced and saved over what he has consumed. By the term "wealth" in this connection I do not mean material wealth alone. It included every product of mind as well. The mental, social, moral, and spiritual achievements of the past are a part of the wealth of to-day. Every triumph of mind or spirit that makes for higher and better living to-day is a part of the world's wealth. This wealth, this stored-up savings of men, constitutes the basis for and conditions all his other activities. A people without an accumulated store of wealth lack the first essential element in their civilization to make them able to accomplish spiritual things.

I know it is often said that this is the wealthiest and at the same time the most materialistic age in the world. That is true in a certain sense, but it is also true that the common wealth of the age as well as the sum total of individual wealth furnishes the opportunity for the achievements that have been accomplished. Our schools and colleges, our libraries, our homes of comfort, our means of transportation and communication, and all our means of enjoyment in life are physical conditions necessary for spiritual as contrasted with material upbuilding.

The right of property on the one hand, of life, of liberty, of the pursuit of happiness on the other, are not antagonistic and hostile, to be set off in terms

of opposition. Material wealth is the handmaid of spiritual achievement—that is, of intellectual, social, and moral achievement. To this extent the right of property is the ally of the right of life in its fullest enjoyment, of liberty in its proper sense, and of the pursuit of happiness. The individual may not be wealthy himself, yet he is the beneficiary of the common and collective wealth in the civilization in which he lives. He is the “captain of his soul” in that he can steer his course as he chooses and lay under tribute the accumulated wisdom and savings of all time, whether it be in the realm of matter or of spirit. Instead of perishing with its own age, this surplus wealth, both material and spiritual, handed down from one generation to another, remains to bless and nourish each succeeding generation.

PROGRESS CONDITIONED ON CONSERVATION.

Paradoxical as it may seem, all progress is conditioned on the principle of conservation. Conservation, or preservation as it is usually termed, of the wealth of the world, whether it be in the realm of the material or spiritual, is conditioned on the supremacy of the law. If there is one fact history teaches above another, it is that the rights incident to wealth and the rights furnishing the opportunity to enjoy spiritual, intellectual, moral, and social things are conditioned upon the supremacy of the law.

Dr. McCosh, in his work on logic, says that words are the fortresses of thought, meaning thereby that every new idea or concept is held in place, its principle, limitation, and definition permanently preserved by the word which stands in the language for such concept. Law in the development of civilization bears the same relation to the acquisitions of man. Instead of permitting these acquisitions to be lost or dissipated, the law attaches legal rights thereto, establishes a nexus between the person and the thing, and thereby furnishes the strongest motive of the race to conserve. Hence, the conservative occupies the vantage ground in the march of progress. The iconoclast, by destroying existing things, is the enemy of progress. Many modern substitutes in the name of progress serve only to destroy existing things without leaving anything enduring and abiding in their place.

I have always regarded it as a good rule of life to keep my conservative foot firmly planted on solid ground until I find a sure foundation for my progressive foot.

Without the principle of conservation there is no progress, because each generation starts where its predecessor did. Acting under its principle each generation starts where its predecessor left off, and is—

The heir of all the ages in the foremost files of time.

HUMAN LIFE SUPREME OBJECT.

I do not mean in what I have said to glorify property or the right of property as the chief aim or end of government. Nothing could be further from my mind. Human life is the supreme object above everything else of all government. Property is subservient to the majesty of a human soul. Yet, if the history of civilization teaches one lesson beyond dispute, it is that the development of the spirit is intimately interwoven with the conservation of the world's wealth. This affords the opportunities for education, for culture, for study, for enjoyment, for the pursuit of happiness in its various phases, and is in any civilization intimately connected with its stored-up wealth. It also teaches that things of the spirit can best reach their full fruition through the advantages this collective wealth of the world gives. Hence, respect for law is the *sine qua non* of our civilization.

Turning now from these observations on the historical side of this subject, I desire to mention a few matters of a more concrete and specific nature. And, in passing, permit me to suggest that the supremacy of the law, though challenged, is not undermined by the ordinary criminal who commits murder, robbery, larceny, etc. To the contrary, every occurrence of crimes of this sort tends to impress upon society the profound importance of the supremacy of the law and its vigorous enforcement. The supremacy of the law is and has been challenged mainly in that class of legislation where there exists a difference of opinion as to governmental policy in enacting the legislation in question.

DISRESPECT FOR LAW.

Disrespect for law has manifested itself in the past mainly by large corporations or aggregations of wealth, commonly known as big business, and by labor organizations in relation to such business. At the present time among the forces that are undermining respect for law are the following: The doctrine of so-called political offenses, erroneous conceptions of personal liberty, and false doctrines as to the rights of individuals and minorities. These may not be the only sources of disrespect for law, but they are deserving of attention at this time because their proponents have been especially active in asserting them since the World War.

I wish to speak briefly on each one of these subjects.

Because of 100 years of practically uncontrolled freedom of conduct, large corporations and aggregations of persons and capital have resented the interference of laws regulating them in the interest of the people as a whole. This has been a mistaken attitude. Law and order is the shield of business and its only security. The attitude of contempt for law, resulting in an effort to evade and violate it, is suicidal to business, for it removes its only support. Business should see that its security lies in obedience to law; that the whole doctrine of private property depends upon law; that law violation is contagious, and therefore that all other classes of society can adopt toward property and the persons who own it the same methods and the same attitude. It would be unreasonable, indeed, for any element of society to attempt to invoke the law for its security and protection which it has held in contempt and sought to break down. This, however, has not been the most immediately harmful effect of the disregard of law by business. Unscrupulous business methods in violation of law, an attitude that the power of wealth lifts its owners above the law so that they can defy it with impunity, arouse a spirit of resentment in society. A prejudice is created not only against immediate acts of law violation but also against its very existence and lawful operations. In short, the conduct of business in violating law has often produced a reaction in society that has caused restrictions, limitations, and the penalties to be placed upon it that are in some instances unsound from an economic, industrial, or social point of view.

BIG BUSINESS.

The attitude at times of big business that it is above the law has also stimulated the spirit in the public that lawlessness must be met by lawlessness; that one unlawful act by an element of society must be challenged and met by another unlawful act. This, of course, breeds a growing disrespect for law. These acts of lawlessness are contagious, so that the law violator all along the line thinks that he is only following the example set for him by those agencies of business that were strong enough and well enough entrenched to violate the law with impunity. The hold-up man is the counterpart of the profiteer. The lawlessness of labor is the counterpart of the lawlessness of capital. The lawless employee is always an apt pupil of a lawless employer.

LABOR ORGANIZATIONS.

As for labor organizations, many have opposed them in principle, especially the employer class. Whether economically wise or not, it is not material to discuss here. In passing it may be said, however, that most fair-minded people feel that in the absence of regulation by Government for his protection the man who toils is at an unfair advantage, dealing as an individual, with his more powerful employer, who often represents large aggregations of wealth. For this reason society as a whole has not opposed these organizations for the protection of labor, the practical fact being that one combination of men have been brought face to face with another combination of men. The concern of society is that it has been the innocent victim of the struggle between the employer and the employee.

HARMONIOUS UNDERSTANDING.

Happily there seems now to be a commendable spirit on the part of the employer representing so-called big business, on the one hand, and the employee,

composing the labor groups, on the other, to bring themselves within the law and to respect the law. This is true not only in their direct relation to law but is true as the statement of an attitude toward each other. However, the efforts in working out a harmonious understanding between capital and labor so as to avoid injury to the public have not made the progress that the friends of good government have wished. It is of no avail to preach the doctrine that each of these elements when it understands the other will do the right thing. The men who preach this doctrine, whether they be theorists or practical captains of industry or labor leaders, are usually the class of men who themselves are willing to do the right thing. To these men the love of justice is the prime consideration. Unfortunately they are the exceptions. Therefore since the general rule in business is that the employer wants to secure service on the most advantageous terms to himself and the employee wants to render service on the most advantageous terms to himself, the conflict is ever present. The clash of interests is always a controlling factor.

INTEREST OF THE PUBLIC.

That the public is a vitally interested party is admitted by all. Yet it has little guaranty from law that its rights will be protected. It has seemed to me, therefore, that there ought to be laws to which either party to the controversy could appeal for the settlement of any dispute that arises between employer and employee in order that the public, as well as the parties, should not be subjected to the hardships resulting from controversies between these two factors of industry.

I do not take the position that either the Federal or State governments should enact a code of legislation binding and tying the hands of these two factors in settling their disputes. Strikes and lockouts, and similar things, ought to be unknown. These weapons came into existence because a tardy public sentiment did not provide the means to secure justice by those who invoke them. We are now in this situation: In the field of social, economic, and political philosophy that must underlie any law on this subject, it may be said that our statesmen, publicists, economists, educators, and thinkers are hopelessly divided. Why? Because in the 25 or 30 years that these questions have been gradually becoming more acute they have not had at hand a trustworthy report of the facts of each case as a basis upon which to work. In any particular controversy the employee diligently sets forth his propaganda, having the advantage of an appeal to the people, whose sympathies are always with flesh and blood as against capital. The employer likewise, by less open but equally effective means, sets forth his propaganda. Each propaganda reaches mainly the class of people previously in sympathy with it. It seems desirable that there should be some agency in Government to investigate the facts of each case as it arises, make a finding, and publish it to those concerned. Such publicity in most cases will be all sufficient to settle the question without further action. In the past we have had legislative investigations, commissions of inquiry, boards of arbitration, etc. The great weakness with these boards and commissions has been that their main purpose has been to get the parties together in the immediate controversy instead of making examination of the facts and reporting a finding in the form of a decision upon those facts in which the general social, economic, and moral principles of justice that should control each case would be set forth. If such a thing were done, these reports would in time acquire a value in furnishing a safe and sane basis for determining relations and crystallizing public sentiment in relation thereto.

NOSTRUMS.

I am not much in favor of new nostrums and panaceas to cure the ills of the body politic, but it has occurred to me that there should be some agencies in the Federal and State Governments of this kind. With respect to such agencies, I venture to make the following suggestions:

PUBLICITY IN DISPUTES.

First. It is an undisputed fact that the public have a right to know what the quarrel is about in every actual or threatened strike or lockout and similar controversies.

Second. There should be some definite agencies in government for ascertaining these facts fully and making an impartial finding by those specially qualified both by temperament and training to do this particular kind of work; and such finding should be reported so that it will be a reliable source of knowledge to which students and publicists and statesmen can resort.

Third. Compulsory jurisdiction over these two factors to compel them to submit to an inquiry of this sort is not only desirable but just.

Fourth. At present our study of this question has not been sufficiently thorough to warrant legislation compelling the acceptance of such findings by the parties thereto. Therefore, the jurisdiction of the proper agency should be obligatory upon the parties to submit to the investigation; the acceptance of the finding by the parties should be voluntary.

Fifth. The experience of the past shows that in most cases full, accurate, reliable publicity has been sufficient to compel an adjustment of these cases, Public sentiment is a controlling factor, and it is important, in justice to both of the parties, that it should depend upon something more accurate than successful propaganda.

Sixth. In the course of time, knowledge of the nature and causes of these controversies derived in this way may crystallize public sentiment to the extent that laws can be enacted making such controversies impossible.

Society is vitally interested in the proper solution of this question. When some such plan as I have suggested shall have been put in operation then we will have a more intelligent basis upon which to enact compulsory legislation upon this subject.

I have been discussing acts and conduct as a basis for disrespect for law. I now turn to a consideration of several subjects that tend to create disrespect for law not by specific acts merely but by attempts to justify those acts by certain theories of political philosophy. And of these, the first is the doctrine of so-called political offenses.

POLITICAL OFFENSES.

Political offenses is a term, as you know, of international law used to denote certain classes of offenses which are excepted from the operation of treaties of extradition between States. The offenses comprehended under this term for which extradition will not be granted are usually those involving matters pertaining to civil, religious, or political liberty. The State in which the fugitive has found asylum frequently reserves to itself the right to refuse to surrender such fugitive on the ground that it is one of the excepted cases under the extradition treaty. The principle at the basis of this doctrine is that two sovereign States do not necessarily have the same civil, religious, or political standards of liberty; that one nation may abridge liberty and prescribe penalties for doing certain forbidden acts, which abridgement is utterly opposed to the fundamental political philosophy upon which such other nation exists. Therefore, such other nation reserves to itself the right not to surrender fugitives to a country whose standards upon the subject matter of the crime are entirely different from the standards of the country granting the right of asylum to such fugitives.

From this it will be seen that it is distinctly a doctrine of international rather than of the domestic law of a State. However, some of the European countries who during their history have been torn by revolution and revolt and who for this reason have had to deal with factions within the State have recognized the doctrine of political offenses. Under such circumstances, however, the term still maintains its international character.

The term is unknown in the domestic law of this country. However, in the debates in Congress, in the few years subsequent to the Civil War, the term is found in the discussions pertaining to the status of persons in the Southern Confederacy who gave allegiance to their particular State as against the Union. Here, again, the term has an international rather than a domestic character.

From this brief review it will be seen that the term is one of respectability, as used in international law, and connotes the idea that the fugitive from justice may have performed an act constituting an offense in the State from which he is fleeing, but which act might be regarded as highly heroic and honorable in the

State in which he seeks asylum, but which, nevertheless, constitutes the crime for which the demanding State asks for his extradition.

PROPAGANDA TO DIGNIFY CRIMES.

In this country there is now being disseminated an extensive propaganda to dignify the crimes committed by many persons who are now in prison for disloyal conduct or for obstructing or hindering the Government in prosecuting the war with Germany, and by means of such propaganda to create a public sentiment not only to have such criminals freed but to have this general doctrine of political offenses recognized as a part of our domestic law, the purpose being, when the doctrine is once recognized, to enable criminals and those in sympathy with them to continue such opposition to law and order with impunity. This propaganda has been waged by persons mainly hostile to American institutions for the purpose of educating the public, as they term it, to the fundamental distinction between political offenses and common crimes, and to work for the recognition by the United States of the status of political offenders, to create public sentiment favorable to such so-called political offenders, and to obtain immediate release for all so-called political prisoners. In order that the general character of this propaganda may be understood, it should be stated that these propagandists term all the anarchists, I. W. W.'s, and socialists who have been convicted of law violation, idealists, and heroes of conscience, and demand their release on the ground that the acts of these persons are political offenses merely.

For my own part, I have always acted upon the theory that it never pays to agitate the agitator. I would not dignify this matter if it were confined to socialists, I. W. W.'s, and anarchists, whether they be natives of this country or, as most of them are, importations from the Old World. But when many very well-meaning people, among whom are ministers of the gospel, teachers, editors, and college professors, to say nothing of that vast number of sentimentalists who always stand ready to make heroes out of criminals whenever opportunity offers, feel that it is sufficient reason for the release of these people to say that they are political prisoners, it is proper that something be said on the subject. Men have often been taken off their guard and caught unawares by catch phrases and slogans that seem to express an idea. From the propaganda waged by the enemies of American institutions, these well-meaning persons seem to have acquired the idea from the phrases "political offenses" and "political prisoners" that all the really dangerous radical believers in "direct action" who are in prison to-day for not only violating the laws of the United States but for counseling other persons to law violation are heroes for conscience's sake and akin in some way to the martyrs of old. If this were true, their opinions would be entitled to great weight. But such is not the case.

SOVEREIGN WILL OF THE STATE.

From the history of the origin of the doctrine of political offenses it will be seen that there can be no recognition of that doctrine in the municipal law of this country. Why? Because when the sovereign will of the State expresses itself through duly enacted law it is repugnant to every notion of the supremacy of the law and its uniform application to recognize the doctrine of political offenses. Again, the reason for this doctrine is not present under municipal law; that is, the domestic law of a State. It has been seen that under international law the reason for the doctrine was the different standards of two or more sovereignties as to civil, political, or religious concepts. That reason does not exist under the municipal law of a political State or sovereignty in this country. It would destroy the sovereignty in this country. It would destroy the sovereignty of the State to permit two standards, one repugnant to the other, to exist side by side—the standard of the law and the standard of some individual, or group acting as individuals, to set up a so-called political conscience at variance therewith. Such a doctrine has never been recognized in the municipal law of this country. It is one of the most dangerous cloaks that has yet been devised by the enemies of our constitutional system of government to cover lawlessness and disrespect for law. It is dangerous because it is a term incapable of definition. If sought to be applied, it would be as ominous in meaning as the various shades of elasticity of the political conscience of those who sought to apply it. By the propaganda before us we can readily imagine

how elastic this political conscience would be when we are asked to apply it to the idealists, such as anarchists, I. W. W.'s, and socialists.

NO JUSTIFICATION FOR DOCTRINE OF POLITICAL OFFENSES IN UNITED STATES.

There might have been some excuse, or even justification, for the recognition of such a doctrine in the schisms and controversies, rebellions, revolts, and revolutions of the Old World, whose history has been in some States one continuous struggle between the arbitrary exercise of tyrannical power on the one hand and the just fight for civil, political, or religious liberty on the other. Again, no organ of government existed in many of these States for the sovereign will of the people to express itself. Hence, revolution, rebellion, revolt, and feud within the State were the agencies that necessity compelled them to invoke in order that the spirit of liberty and democracy might express itself. In view of this the various factions within the State frequently had the de facto status of belligerents. Hence, the development of the doctrine after the analogy of international law within the government of these countries. No such justification for the doctrine can exist in this country. Our constitutional system is so organized that at the ballot box the sovereign elector expresses his will. Changes are to be wrought through the constitutional organs of government and by the orderly processes of law. The Constitution, by the rights, privileges, and immunities granted therein, amply protects any citizen in his religious or political liberty. The limitations of the powers of legislation in the Constitution under its bill of rights, together with the judiciary system as the agency for protecting the individual against the invasion of these rights by government furnish ample security for even the most conscientious. In addition thereto, our Government during the late war, as it always has in other wars, adopted a considerate and liberal policy toward conscientious objectors. Hence, there is no occasion to engraft this so-called doctrine of political offenses, the child of the struggles against arbitrary power in the Old World, upon our American political philosophy.

One word more upon this subject. It would be a far reach to include as heroes of conscience those who claim the conscientious duty of fighting against the country that gives them protection, of despising and holding in contempt its flag and its institutions by opposing it, and counseling, aiding, and abetting disobedience to law under the guise of political conscience. A man may have a certain religious or political opinion, but one who not only violates the laws his country imposes but uses his full power to induce others to violate law, to break down peace and order in society, is going too far to excuse himself on the ground that he obeyed his political conscience and thereby committed only a political offense for which he should not be punished. Such a plea offered as a defense or justification, or even extenuation of his conduct, is not consistent with the uniform application and enforcement of law. This subject could not be more forcibly nor tersely expressed than by the present President of the United States in a speech delivered at Omaha, Nebr., October 7, 1920, in which he said:

ALL LAWS SHOULD BE ENFORCED.

No true American will argue that our laws should not be enforced. I refer to laws, no matter of what nature, whether they be those which deal with ordinary crimes and misdemeanors, or those which deal with the acts of treason to the United States, threatening to the Constitution and the fabric of our social organization.

I wish no one to misunderstand me, and, therefore, I will say as plainly as I can that for my part I can see no essential difference between ordinary crimes on the one hand and political crimes and political prisoners on the other hand. If there is a distinction surely it is not a distinction which favors political crimes or political prisoners. The thief, or any ordinary criminal, is surely less a menace to those things which we hold dear than the man or woman who conspires to destroy our American institutions.

PERSONAL LIBERTY.

Another subject that undermines respect for law, especially prominent at the present time, is an erroneous theory of personal liberty under our constitutional system. This controversy is as old as government itself. It has been asserted with especial vigor recently owing to the eighteenth amendment to the Constitution of the United States and to the amendments in the various State constitutions, and because of legislation on the same subject by Congress and the various State legislatures.

The question of the limitations of personal liberty is, in the first instance, a question of political philosophy and not of law. The advocates of personal liberty have ranged all the way from those who favor the widest measure of license to the individual to do as he pleases, on the one hand, to those who would restrict the individual by the most puritanic standards on the other hand. There is no quarrel on my part with any of these groups. As long as life, personality, individual endowment of mind or heart differ there will be differences of opinion among the constituent members of society on questions of this sort. As long as they remain purely speculative questions in the realm of the political philosophy proposed by their respective advocates as the basis for social organization there is and can be no objection to them. Everyone has a right to advocate any view that he pleases on this subject. However, when public sentiment has crystallized into law there can be no question as to the duty of good citizens with reference thereto. They may still debate as to the wisdom of the law, but there is only one course of conduct, and that is obedience to the law while it exists.

ARGUMENTS FOR PERSONAL LIBERTY UNCHANGED.

In order that the weight to be attached to the argument of those persons who claim that their personal liberty is invaded by legislation of Congress and the various State legislatures, it may be profitable to refer to the history of this sort of legislation. In the evolution of government we have gradually limited the sphere of individual liberty. A study of the history of legislation wherein personal liberty has been limited by statute will show that these enactments have been vigorously challenged, and the same arguments have been used against violation of personal liberty that we hear to-day. For example, compulsory education laws, antidueling laws, antigambling laws, regulating social relations, and practically all the abridgments by statute of the common law, have in the past been opposed by the argument that we now hear, namely, that they are violations of personal liberty.

In this connection I am reminded of the well-known remark of Madame Roland, who when led to the guillotine, as she chanced to look up and saw the sign of liberty, which was the slogan of that awful time, exclaimed:

O Liberty! Liberty! How many crimes are committed in thy name.

PERSONAL LIBERTY EXCUSE FOR UNLAWFUL CONDUCT.

Let me not be misunderstood. I do not mean to impute moral turpitude to him who is opposed to the eighteenth amendment or similar amendments in our State constitutions or who is opposed to the Volstead Act or similar legislation in our States. All I mean to say is that the argument of undue abridgment of personal liberty advanced to-day has in the past been advanced by every champion of lawlessness who has sought to find an excuse for unlawful conduct. And in passing let me repeat that this question is older than the American constitutional system. In fact, it constitutes one of the fundamental points of observation in the history of civilization and has been one of the principal elements in the cycle theory of civilization. That theory, briefly stated, is that nations develop a strong, virile life of simple living in their infancy, pass through the various steps of development, and then break more and more the restraints of life about them until surfeited with the luxury that a high civilization can give they throw off little by little the restraints of life until simple living has been changed in license and an unbridled indulgence in everything that appetite and propensities call forth. This effeminates, enervates, and undermines the virility of the nation that it becomes enfeebled, falling sometimes at the hands of a younger and more virile civilization, sometimes decaying merely by mental or moral or spiritual atrophy. Then after the wake of centuries, starting over again, they repeat the same processes. The lesson of all this is that if our civilization will place such restraints about itself as to keep it virile and strong in health its civilization will endure. If it yields to these false doctrines of personal liberty, it will go the way of the nations of the past.

Ill fares the land, to hastening ills a prey,
Where wealth accumulates and men decay.

On this subject of personal liberty Newell Dwight Hillis fittingly said:

He who stoops to bear the yoke of law becomes the child of liberty.

Daniel Webster likewise said:

Liberty exists in proportion to wholesome restraint.

But, gentlemen, whatever be our individual views as to the wisdom of these constitutional provisions and laws made thereunder in our Federal and State Governments restricting personal liberty, the fact remains that they are on the statute books. They have been regularly enacted and are a part of constitutional and statutory law of the land.

LAW ENFORCEMENT ONLY SOUND VIEW FOR GOVERNMENT.

From the standpoint of the Government the only sound view is that of law enforcement. Whatever differences of opinion exist in the views as to the wisdom of some of these laws can be of no concern to the agencies for law enforcement. The executive department can not make the laws. It is equally true that it can not nullify laws. To refuse or to neglect to enforce a valid enactment of the legislative department of government, or to enforce it mechanically or half-heartedly, or to wink at its violation, is without justification on any sound theory of government. Those who ask it or expect it not only contribute to lawlessness but destroy the basis upon which their own security rests. Our safety and happiness lies in obedience to law by every man, woman, and child within the domain of our Republic, and no one can undermine respect for law without being, to that extent, an enemy to law and orderly government.

I am opposed to any system of government in which the rights of any individual or group of individuals depend upon the whim or caprice or temperamental attitude of any public officials.

BILL OF RIGHTS.

As early as 1780 the Massachusetts bill of rights declared for the separation of powers, and assigned as a sufficient reason therefor "to the end that this may be a Government of laws and not of men." One of the fallacies of our present-day thinking is that questions of the supremacy of the law and law enforcement must be made an issue in political elections. It is always vital to know the views of the Executive in State or Nation on questions of proposed legislative policy; for the Chief Executive in the Nation and in the States in which he exercises the veto power and in which he is required to give the legislative department information on the state of public affairs and to recommend to them measures of legislation, is a part of the legislative power, and in the course of our development such Executive has become not only an organ of public opinion but also the political leader of his party. Hence, the electors are entitled to know the position of the Executive on matters of legislative policy. But it can never be proper in a government of law and not of men to demand a definition of his attitude toward the enforcement of law. Practical politics sometimes makes this demand, but to the extent that such practical politics is effective it is contrary to the spirit and purpose of our Government. Our fathers who framed our Constitution would have spurned any such political philosophy.

CITIZEN HAS NO RIGHT TO CHOOSE LAWS HE WILL OBEY.

If any citizen dislikes the law under which he is living, his relief is through the legislative department of Government, and not through those who, under the Constitution, have the sworn duty of enforcing the law. As a citizen can not choose what laws he will obey, so, likewise, those charged with law enforcement can not choose what laws they will enforce. The only sound position for those who favor respect for law to take is that those charged with law enforcement must enforce all the laws, and all good citizens must obey all the laws; neither can exercise any right of choice in this matter without placing themselves above the law. It is the part of faithful officials to enforce and the part of good citizens to obey them.

MINORITY AND MAJORITY RIGHTS.

Another subject closely related to the topic just discussed that tends to undermine respect for law, and which has been a mooted question in every

system of constitutional government, is the mistaken theories of the relation and attitude of the minority to the majority. Recently we hear much about the rights of the minority, as if it had a special privilege of not obeying the law because it is made by the majority.

Our constitutional fathers understood thoroughly the political philosophy underlying the relation of government to individuals and to minor groups of individuals. There was nothing in the doctrine of minorities in relation to majorities that was not before them for consideration. They gave to the world its first solution of that problem in an instrument which protects the rights of minorities as far as they ought to be protected and at the same time left the majority free to carry out the sovereign will.

The theory of our constitutional system as framed by our fathers, as is well known to all, is that there is a field of rights, privileges, and immunities set off as a separate domain into which the powers of government can not enter. They also provided the first agency in the world's history for protecting this excluded domain from trespass by government by establishing a judicial system with power to say to the various agencies of the Government—

"Thus far thou shalt go and no farther." The fathers did not claim infallibility for the rule of the majority. They provided against hasty or inconsiderate action by a system of checks and balances, by the doctrine of the separation of powers, and by making the two branches of the legislature as well as the Executive agencies in law making. This system insured careful consideration and the opportunity for the public sentiment of the Nation and States to express itself.

The criticism of our Government, as contrasted with the parliamentary system of government, has heretofore been that by its organization and structure it is difficult for the majority will to express itself freely rather than the criticism that the Constitution was so made that the majority will could ride roughshod over the minority. In view of these constitutional safeguards, there can be no excuse for any person within the domain of this Republic to hold its laws in contempt; to disobey them himself or countenance others to acts of disobedience to them on the ground that the rights of the minority have been disregarded. It is the duty of the minority as well as the majority to obey the law.

I am fully aware that much that I have said is familiar thought to most, if not all, of the audience now present before me. My experience in the last few months as head of the law-enforcing department of the Government has carried to me the conviction that these things should be said to the general public. It has been my thought to use this occasion and this audience as the media through which to transmit these thoughts and suggestions to the American people, who are vitally concerned in maintaining a just and wholesome respect for law.

DUTY OF LAWYERS.

I consider the reputable American lawyer everywhere a part of the Department of Justice and expect him to give to both the department and the public advice and support, to the end that the law may be universally understood and uniformly enforced.

LAWLESSNESS IMPERILS NATION.

If laws are obnoxious to the people, it is their province to repeal them. Until they are repealed they must be observed and enforced without fear or favor.

The Government will endure on the rock of law enforcement, or it will perish in the quicksands of lawlessness.

Those who do not believe in our Government and the enforcement of our laws should go to a country which gives them their peculiar liberty.

To those who come to our shores to take advantage of American opportunities it is becoming to wave the hands of welcome. But it is our duty to warn them to stay away unless they intend to observe our customs and obey our laws.

DUTY CLEAR.

My duty is clear. As long as I am the responsible head of the Department of Justice the law will be enforced with all the power possessed by the Government which I am at liberty to call to my command.

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THE JUDICIAL SECTION OF THE AMERICAN BAR ASSOCIATION STRONGLY CONDEMNS LAWLESSNESS.

The executive committee of the judicial section carefully considered and approved the report of Judge Charles A. Woods, chairman of this section of the American Bar Association. This report was unanimously adopted by the judicial section of the American Bar Association. It is a timely warning to private citizens and public officials who are encouraging lawlessness.

The report in part says:

The judicial section of the American Bar Association, venturing to speak for all the judges, wishes to express this warning to the American people: Reverence for law and enforcement of law depend mainly upon the ideals and customs of those who occupy the vantage ground of life in business and society. The people of the United States, by solemn constitutional and statutory enactment, have undertaken to suppress the age-long evil of the liquor traffic.

When, for the gratification of their appetites, or the promotion of their interests, lawyers, bankers, great merchants, and manufacturers, and social leaders, both men and women, disobey and scoff at this law, or any other law, they are aiding the cause of anarchy and promoting mob violence, robbery, and homicide, they are sowing dragon's teeth, and they need not be surprised when they find that no judicial or police authority can save our country or humanity from reaping the harvest.

